

**HARWINTON ZONING COMMISSION
MONDAY, NOVEMBER 13, 2023
TOWN HALL 7:00 P.M.**

PLEDGE OF ALLEGIANCE

Present: Chairman Daniel Thurston, Theodore Root, William Ponte, Deborah Kovall, Michelle Whitford, Land Use Coordinator Polly Redmond and Zoning Enforcement Officer Don Truskauskas
Also Present: Kent Mancini, Cramer & Anderson, Litchfield, CT, Town Counsel for the matter of Peter Hock
Absent: Alternate Member Stephen Smith

1. OPEN MEETING ESTABLISH QUORUM.

Chairman D. Thurston called the meeting to order at 7:00 p.m. All regular members present are seated.
*Newly appointed Alternate D. Foster not officially a part of the board until he is sworn in.

2. APPROVE MINUTES OF PREVIOUS MEETING: 10/23/2023

W. Ponte **motioned** to approve the minutes of the previous meeting, seconded by M. Whitford. Motion passed unanimously.

3. ELECTION OF OFFICERS.

T. Root nominated Daniel Thurston as Chairman, seconded by W. Ponte. With no other nominations, the **motion** passed unanimously.

W. Ponte nominated T. Root as Secretary, seconded by M. Whitford. With no other nominations, the **motion** passed unanimously.

4. PUBLIC COMMENT.

William Foster, 6 Hannah Way, questions why Leonard Lopardo is not present tonight as was discussed at the last Zoning meeting. Mr. Foster states that no work has been done and asks what can be done to move Mr. Lopardo along. Can the bond the town is holding be released to complete the work? Commissioners state that the bond cannot be released at this time as the site plan approval is still open and doesn't expire until 2026.

Gregory Lucian, 31 Hannah Way, questions if the Commission received any information on who is responsible for erosion control and erosion problems. LUC Redmond reports that she asked Town Counsel Michael D. Rybak who it is that is responsible for erosion problems on site at Sunset Ridge since the site is still open and the Zoning Site Plan approval expiration has been extended to 2026. Mr. Lopardo is saying the Association owns the land and is responsible for erosion control/problems. Atty. Rybak wrote back stating *"Ownership of the property does not determine responsibility for compliance with the special permit and site plan requirements, the erosion control permit or the performance bond. The applicant is responsible and cannot avoid the liability for compliance with the regulations by transferring ownership of the property."*

Commissioner Deborah Kovall recuses herself at this time.

5. PETER HOCK – DISCUSS COMPLAINT AGAINST HIM REGARDING KEEPING OF ANIMALS, 797 HILL ROAD.

Peter Hock is present along with his attorney William Conti, Conti, Levy, Salerno & Antonio, LLC, Torrington, CT. Atty. Conti distributes to Commissioners a copy of the December 10, 1990 Zoning minutes that LUC Redmond presented into the record at the 10/23/2023 Zoning meeting. Those minutes from 1990, found in the land records, state the following: Application: Peter Hock, Erection of Barn, Hill Road. *"Applicant appeared and explained, with maps, proposal to erect barn to house animals and some*

machinery; no business to be conducted from barn.” Atty. Conti also distributes copies of letters (8) from family members, animal suppliers and customers of the Hock farm attesting to the fact that the farm always had animals, sold animals and slaughtered animals. Also submitted is a copy of a 1943 hand-written receipt for the sale of the “20-acre farm” to Conrad Hock purchased from Ms. James Ball for \$4000.00. Atty. Conti states that Peter Hock will testify that his dad, Conrad, slaughtered animals on this property for over 60 years, sold chickens from this property to customers and during this time some farmers sold among themselves. Atty. Conti asks Mr. Hock if the setbacks were being met for that time for keeping of animals with Mr. Hock replying, yes. Atty. Conti asks if a building permit has been taken out for the temporary building housing animals now that replaced the burned down barn with Mr. Hock replying, yes.

In referring to the 1990 Zoning minutes where Mr. Hock applied for the barn and is quoted in the minutes as saying, “no business to be conducted from barn”, Atty. Conti states that what Mr. Hock meant by saying this was that no business of a gravel operation was to be held in the barn. Upon questioning by Atty. Conti, Mr. Hock states that there was a gravel operation on the 797 Hill Road property in 1990 but it was moved to 833 Hill Road and that operation became defunct in early 2000. T. Root refers back to the 1990 Zoning minutes reading out loud what it states, “*Applicant appeared and explained, with maps, proposal to erect barn to house animals and some machinery; no business to be conducted from barn.*” asking Mr. Hock if, at that time, he was referring to the gravel operation not being conducted from the barn with Mr. Hock answering, yes.

William Kovall, 789 Hill Road, complainant, is in the audience and states that the setbacks may have been met then but now there is a business being conducted out of the property. When Atty. Conti mentioned that farmers sold food among themselves but this has nothing to do with running out of food and the struggles of that time. Mr. Kovall notes that the operation being conducted out of 797 Hill Road is being advertised as wholesale by Delicias Da Fazenda with Atty. Conti stating that Mr. Hock says they are not wholesaling and that the Hocks have been selling animals for 60 years. Mr. Kovall states that they haven’t been selling under an LLC though with 35-40 pigs on the property and being housed in a 30’x 65’ building along with other animals.

Atty. Conti states that the activity taking place, operating under the name Delicias Da Fazenda at 797 Hill Road, is not wholesale as wholesale means selling products to grocery stores. If it is advertised on the internet as a wholesale operation, it may be due to a language barrier by the operators of the business. At this time, Atty. Conti asks Mr. Hock a series of questions. He asks if he engages in wholesaling, Mr. Hock replies, no. How long has the farming, keeping and slaughtering of animals been taking place with Mr. Hock replying, since the early 60s. Atty. Conti asks Mr. Hock whether animals, fruits and vegetables were always sold out of the property with Mr. Hock replying, yes. Mr. Hock is asked how many pigs are on the property at this time with Mr. Hock replying, 35 with some as young as three to six months old that are sold as roasters. Larger pigs, 200-300 pounds, are used for pits. Atty. Conti asks why is there such a demand now for pigs with Mr. Hock replying, because of the upcoming holidays. Atty. Conti asks Mr. Hock if he slaughters the pigs with Mr. Hock replying, yes.

LUC Redmond questions Mr. Hock asking if he is registered with the Secretary of State as a business with Mr. Hock replying, yes. LUC Redmond asks if documentation of that fact can be provided to the Zoning Commission with Mr. Hock replying, yes.

Chairman Thurston states that the Commission will reconvene to the December 11, 2023 Zoning meeting with Mr. Hock providing proof from the Secretary of State at that time. *Atty. Conti requested that the next appearance be in December instead of the next Zoning meeting on November 27th with Commissioners agreeing to his request.

Commissioner Deborah Kovall is reseated at this time.

6. INFORMAL DISCUSSION – ACCESSORY APARTMENT, 91 CATLIN ROAD.

LUC Redmond provides a reduced copy of the floor plan for 91 Catlin Road that shows what appears to be an accessory apartment within the newly built home. Kevin McGivern, owner, made application before the Zoning Board of Appeals in 2019 for construction of a single family dwelling, receiving a variance for two side yard setbacks and inability to meet lot coverage requirements, stating that he was proposing an office above the garage that “may” turn into an accessory apartment for his son. An office above the garage was not built but, according to Mr. McGivern who spoke to LUC Redmond, an accessory apartment was made for his son to live in. Jeff Neumann, Building Inspector, had ordered Mr. McGivern to remove a second electric utility meter installed as the house was not a two-family home. LUC Redmond had instructed Mr. McGivern to remove a second mailbox, marked as 91A Catlin Road, as the house was not to be considered a two-family. Commissioners ask that Mr. McGivern be informed that he is to attend the November 27, 2023 Zoning meeting and to make application for a Special Permit for the accessory apartment.

Commissioner Deborah Kovall recuses herself at this time.

7. COMPLAINTS/ENFORCEMENT ACTIONS.

Erik Bagley, 800 Hill Road, is present to respond to a complaint made against him for processing wood in a residential zone. Mr. Bagley has written a letter to the Zoning Commission on 11/8/2023 in response to a notice of possible violation sent to him by ZEO D. Truskauskas. Mr. Bagley explains in his letter that, on a regular basis, he receives free wood from acquaintances who own or are employed at local tree cutting companies and that he also harvests wood that he brings back to his property. His primary heat source is wood burning and any excess wood he has he provides to his family and friends in the amount of one cord at a time. Any excess wood he has after that he does sell and notes at the end of his letter that the wood he receives is free of charge with no expectations of monetary reimbursement and requires zero expenditure. He explains to the Commissioners tonight that the log splitter he uses is homeowner grade and he also uses an ax and chainsaw. T. Root questions how much wood he burns with Mr. Bagley responding, approximately 20 cords. T. Root questions how many loads of logs has he received this year with Mr. Bagley reporting he receives approximately 3 cords of wood once a week. He notes that he will not be cutting wood in the winter and does not cut wood at night, as it is far too dangerous, and also that he works nights at his full-time job. M. Whitford questions how many cords of wood are on the property presently with Mr. Bagley responding, 15-20 cords. A letter was received at tonight’s meeting, written by Bryan Heavens and read into the record, that states he is aware that his name was brought up in recent Zoning meetings comparing his operation to what Mr. Bagley is doing without any facts, as Mr. Bagley has yet to express or defend himself directly to the Zoning Board. His letter goes on to reference his 2010 case brought before the ZBA, and won, for harvest timbering, and the by-product of firewood, on his property in town. He asks that his case not be compared to in the matter of what Mr. Bagley is doing and that he would be happy to come before the Board and properly defend what he does and why he won his appeal, if needed. William Kovall, 789 Hill Road, audience member, states that Mr. Bagley should only be burning only 7 cords of wood to keep his house warm and that he sees trucks that come once a week and unload 10-20 logs, 12’-16’ long. He objects to the statement made by Mr. Bagley that he doesn’t cut wood at night. Anna Roberts, 775 Hill Road, audience member, states that she has counted wood deliveries three times a week and four different times and that Mr. Bagley does cut wood at night and she can see this from her house. She also questions why the wood has to be stacked in the front of Mr. Bagley’s house with Mr. Bagley replying that it is for easy access to keep the wood in front. She provides to the Commission a copy of Mr. Bagley’s online Marketplace advertisement for firewood for sale with free delivery at a cost of \$230. Commissioners agree that Mr. Bagley is allowed to process wood on his property and is allowed to sell what he processes.

Commissioner Deborah Kovall is reseated at this time.

8. ANY OTHER BUSINESS.

D. Kovall reminds Commissioners that emails received from LUC Redmond to the board should not be answered or commented on as “Reply All” as that could be construed as an illegal meeting.

D. Kovall refers to an email LUC Redmond forwarded to Commissioners from UConn CLEAR for Commissioner Training Opportunity in Haddam, CT all day on Saturday, December 9, 2023.

D. Kovall states she is planning on attending and suggests perhaps car pooling with anyone else on the board who wants to attend. Registration deadline is December 1st.

W. Ponte **motioned** to request the Board of Selectmen to appoint a backup Zoning Enforcement Officer in the event ZEO Don Truskauskas cannot provide inspections, seconded by D. Kovall. Motion passed unanimously.

9. INFORMAL DISCUSSION – PROPOSED ZONING REGULATION AMENDMENTS.

No discussion.

10. CORRESPONDENCE.

None.

11. INVOICES.

None.

12. ADJOURN.

W. Ponte **motioned** to adjourn the meeting at 8:35 p.m., seconded by T. Root. Motion passed unanimously.

Respectfully submitted,



Polly Redmond
Land Use Coordinator

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TOWN CLERK